

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JUAN CARLOS BAEZ

Petitioner(s),

vs.

HAMILTON COUNTY, OHIO

Respondent(s)

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Case Number: 1:07cv821

District Judge Susan J. Dlott

ORDER

The Court has reviewed the Report and Recommendations of United States Magistrate Judge Timothy S. Black filed on December 10, 2007(Doc. 8), to whom this case was referred pursuant to 28 U.S.C. §636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) expired January 1, 2008, hereby ADOPTS said Report and Recommendations.

Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 (Doc. 1) is **DISMISSED** as moot. The dismissal is without prejudice to the extent petitioner may file an action challenging his current detention by federal immigration authorities in the appropriate district with jurisdiction over such matters.

A certificate of appealability will not issue under the standard set forth in *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000), which is applicable to this case involving a recommended dismissal of the petition on jurisdictional mootness grounds. *See Lovett v. Carroll*, No. Civ. A. 01-782-JJF, 2002 WL 1461730, at *2 (D. Del. June 27, 2002) (unpublished); *cf. Gille v. Booher*, 229 F.3d 1163 (table), No. 00-6106, 2000 WL 1174612 (10th Cir. Aug. 18, 2000) (unpublished) (denying certificate of appealability because the petition was

moot). “Jurists of reason” would not find it debatable whether this Court is correct in its ruling on jurisdictional mootness grounds.

With respect to any application by petitioner to proceed on appeal *in forma pauperis*, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of any Order adopting the Report and Recommendation would not be taken in “good faith,” and therefore **DENIES** petitioner leave to appeal *in forma pauperis*. See Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949,952 (6th Cir. 1997).

IT IS SO ORDERED.

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s/Susan J. Dlott
Susan J. Dlott
United States District Judge